



## DEPARTMENT OF THE TREASURY

Internal Revenue Service  
TE/GE EO Examinations  
1100 Commerce Street  
Dallas, TX 75424

### TAX EXEMPT AND GOVERNMENT ENTITIES DIVISION

Number: **200829050**

Release Date: 7/18/2008

April 7, 2008

#### LEGEND

ORG = Organization name      Xx = Date      Address = address

ORG

ADDRESS

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

**UIL: 501.03-01**

### CERTIFIED MAIL – RETURN RECEIPT

LAST DATE FOR FILING A PETITION  
WITH THE TAX COURT: July 7, 20XX

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

Inurement and/or private benefit of an IRC Section 501(c)(3)'s assets in any form or amount is prohibited. ORG has not been operating exclusively for exempt purposes within the meaning of Internal Revenue Code section 501(c)(3). ORG also is not a charitable organization within the meaning of Treasury Regulations section 1.501(c)(3)-1(d). You are not an organization which operates exclusively for one or more of the exempt purposes which would qualify it as an exempt organization. You operate substantially for a non-exempt purpose; the providing of commercial services.

You failed to meet the requirements of IRC section 501(c)(3) and Treas. Reg. section 1.501(c)(3)-1(d) in that you failed to establish that you were operated exclusively for an exempt purpose. Rather, you were operated for a substantial non-exempt purpose; providing debt negotiation and debt settlement services.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code. You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91<sup>st</sup> day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers.

You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Marsha A. Ramirez  
Director, EO Examinations



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service  
MS:4957:DAL  
1100 Commerce Street  
Dallas, TX 75242-1100

December 20, 2007

ORG  
ADDRESS

Taxpayer Identification Number:

Form:  
990

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez  
Director, EO Examinations

Enclosures:  
Publication 892  
Publication 3498  
Report of Examination

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
<b>Name of Taxpayer</b> ORG  ISSUE – Tax-exempt Credit Counseling Agency operating like a commercial business		<b>Year/Period Ended</b>  20XX/12

**LEGEND**

ORG = Organization name      XX = Date      CO-1 = 1<sup>st</sup> company  
 Co-2 = 2<sup>nd</sup> company

**Non-Profit organization operating like a commercial business**

**ISSUE**

1. Whether ORG is operated exclusively for exempt purposes described within Internal Revenue Code section 501(c)(3):
  - a. Whether ORG is engaged primarily in activities that accomplish an exempt purpose?
  - b. Whether more than an insubstantial part of the activities of ORG are in furtherance of a non-exempt purpose?
  - c. Whether ORG was operated for the purpose of serving a private benefit rather than public interests?
  - d. Whether any part of the net earnings of ORG inured to the benefit of any private shareholder or individual?

**FACTS**

The taxpayer, ORG, is an organization exempt from Federal income tax under Internal Revenue Code section 501(a) as an organization described in section 501(c)(3). This organization has been incorporated in the state of Texas. Its primary purpose is to educate consumers in the responsible use of credit and enroll them in debt management programs when appropriate

The main issue of contention is whether the current mode of operation by the exempt organization will preclude the tax exempt status of the organization. At present, the organization is not processing any new clients. The organization gets a portion of the payment collected by the CO-1, another 501(c)(3) organization, from the DMP payments of the existing clients. The organization then pays 85% of this payment so collected from CO-1, to CO-2, a for profit company which provides the front-end processing such as, meeting with the clients, counseling the clients, providing phone lines, helping with payment changes for the clients, etc., for the EO.

At present, in the year 20XX, although the President is not adding any new clients to this non-profit organization, he is working with the for-profit entity, CO-2, continuing in general, activities similar to those performed by the non-profit. However, he is worried that he might not be able to service the current clientele, if for some reason, the tax-exempt status of the organization is revoked. CO-1 had insisted that for them to deal with, the organization has to be tax-exempt and that he could not steer away the clients (of ) already being serviced by CO-1.

However, the organization is getting all of its revenues from the payment collected from the customers on DMP and fair-share payments from creditors. There is no contribution

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from general public or governmental agencies. The board of directors does not represent a cross-section of the community served. It comprises of four people, one of who is the President.

The organization, according to the President never purchased leads, for potential clients, from a third party. They get referrals from banks, local CPAs, Churches and City Manager. Some of the clients include local prison inmates or their families.

**LAW**

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from income tax under section 501(a) and reads, as follows:

IRC §501(c)(3) in part, states that Corporations, and any community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes.. shall be exempt from taxation.

Federal Tax Regulations §1.501(c)(3)-1(e), in part, states that an organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial parte of its activities, if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes.

**TAXPAYER'S POSITION**

THIS AREA IS LEFT BLANK AT THIS TIME

**GOVERNMENT'S POSITION**

The primary purpose of the organization at the present time appears to be running a commercial business which is not in furtherance of its exempt purpose.

Although, the organization, during the year under audit appeared to be meeting some of the educational requirements for a credit counseling agency, it fails to satisfy other operating tests. In that, almost the entire revenue stream is from debt management plan and fair share payments from customers and creditors respectively. There is no charity payment from general public or any governmental agencies. The board of directors of the organization is not represented by the community. The board is a small group of individuals; one of them is the President of the organization.

The current operation of the organization appears to be nothing more than the maintenance of the client base on the debt management plan and collecting the regular monthly fee.

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This activity is not in furtherance of the educational purposes within the meaning of IRC §501(c)(3)

**CONCLUSION**

In the case of ORG, it is held that, where the primary purpose or activity of the credit counseling agency is the maintenance of debt management plans for customers, it is not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. Ruling and determination letters which have been issued granting exemption from income tax under section 501(c)(3) of the Code to such organization should be revoked. The effective date for this revocation shall be January 1, 20XX.